

Kevin Díaz, OSB No. 970480
Email: kdiaz@aclu-or.org
ACLU Foundation of Oregon
PO Box 40585
Portland, OR 97240
Tel.: (503) 227-6928; Fax: (503) 227-6948

Nathan Freed Wessler (*pro hac vice*)
Email: nwessler@aclu.org
Ben Wizner (*pro hac vice*)
Email: bwizner@aclu.org
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004
Tel.: (212) 549-2500; Fax: (212) 549-2654

Attorneys for the Plaintiffs-Intervenors

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

**OREGON PRESCRIPTION DRUG
MONITORING PROGRAM**, an agency of
the **STATE OF OREGON**,

Plaintiff,

v.

**UNITED STATES DRUG
ENFORCEMENT ADMINISTRATION**,
an agency of the **UNITED STATES
DEPARTMENT OF JUSTICE**,

Defendant.

Case No.: 3:12-cv-02023-HA

**DECLARATION OF
NATHAN FREED WESSLER
IN SUPPORT OF PLAINTIFFS-
INTERVENORS' MOTION FOR
SUMMARY JUDGMENT**

JOHN DOE 1, et al.,

Plaintiffs-Intervenors,

v.

**UNITED STATES DRUG
ENFORCEMENT ADMINISTRATION,
an agency of the UNITED STATES
DEPARTMENT OF JUSTICE,**

Defendant in Intervention.

I, Nathan Freed Wessler, hereby declare and state as follows:

1. I am counsel for Plaintiffs-Intervenors in the above-captioned case. I make this declaration in support of Plaintiffs-Intervenors' Motion for Summary Judgment.

2. Attached hereto are true and correct copies of the following:

<u>Document</u>	<u>Exhibit</u>
Oregon Health Authority, Frequently Asked Questions, http://www.orpdmp.com/faq.html	A
Oregon Health Authority, Oregon Prescription Drug Monitoring Program (2012), http://www.orpdmp.com/orpdmpfiles/PDF_Files/PDMP-fact-sheet_2012_v1.0.pdf	B
S.B. 355, A-Engrossed, 75th Leg. Assembly (Or. 2009), <i>available at</i> http://www.leg.state.or.us/09reg/measpdf/sb0300.dir/sb0355.a.pdf	C
Office of Diversion Control, Drug Enforcement Administration, Controlled Substances by CSA Schedule (May 28, 2013), <i>available at</i> http://www.deadiversion.usdoj.gov/schedules/orangebook/e_cs_sched.pdf	D
Drug Summary: Adderall (amphetamine salt combo), PDR.net, <i>available at</i> http://www.pdr.net/drug-summary/adderall?druglabelid=1048&id=1400	E
Drug Summary: Ambien (zolpidem tartrate), PDR.net, <i>available at</i> http://www.pdr.net/drug-summary/ambien?druglabelid=2515&id=1376	F
Drug Summary: Android (methyltestosterone), PDR.net, <i>available at</i> http://www.pdr.net/drug-summary/android?druglabelid=2837	G

Drug Summary: Lorazepam (Ativan), PDR.net, <i>available at</i> http://www.pdr.net/drug-summary/lorazepam?druglabelid=2668	H
Drug Summary: Cesamet (nabilone), PDR.net, <i>available at</i> http://www.pdr.net/drug-summary/cesamet?druglabelid=692	I
Drug Summary: Clonazepam (Klonopin), PDR.net, <i>available at</i> http://www.pdr.net/drug-summary/clonazepam-tablets?druglabelid=2386	J
Drug Summary: Codeine Sulfate, PDR.net, <i>available at</i> http://www.pdr.net/drug-summary/codeine-sulfate-tablets?druglabelid=2672	K
Drug Summary: Depo-Testosterone (testosterone cypionate; Androgen), PDR.net, <i>available at</i> http://pdr.net/drug-summary/depo-testosterone?druglabelid=1870&id=1634	L
Drug Summary: Didrex (benzphetamine hcl), PDR.net, <i>available at</i> http://pdr.net/drug-summary/didrex?druglabelid=1871	M
Drug Summary: Librium (chlordiazepoxide hcl), PDR.net, <i>available at</i> http://pdr.net/drug-summary/librium?druglabelid=2717	N
Drug Summary: Lunesta (eszopiclone), PDR.net, <i>available at</i> http://pdr.net/drug-summary/lunesta?druglabelid=2082	O
Drug Summary: Marinol (dronabinol), PDR.net, <i>available at</i> http://pdr.net/drug-summary/marinol?druglabelid=2726	P
Drug Summary: Meperidine (Demerol), PDR.net, <i>available at</i> http://pdr.net/drug-summary/demerol-tablets?druglabelid=2873	Q
Drug Summary: Methadose Oral Tablets (methadone hydrochloride), PDR.net, <i>available at</i> http://pdr.net/drug-summary/methadose-oral-tablets?druglabelid=762	R
Drug Summary: Morphine (morphine sulfate), PDR.net, <i>available at</i> http://pdr.net/drug-summary/morphine-sulfate-tablets?druglabelid=1520	S
Drug Summary: Nembutal, (pentobarbital sodium), PDR.net, <i>available at</i> http://pdr.net/drug-summary/nembutal?druglabelid=2052	T
Drug Summary: Onfi (clobazam), PDR.net, <i>available at</i> http://pdr.net/drug-summary/onfi?druglabelid=295	U
Drug Summary: OxyContin (oxycodone hcl), PDR.net, <i>available at</i> http://pdr.net/drug-summary/oxycontin?druglabelid=492	V
Drug Summary: Provigil (modafinil), PDR.net, <i>available at</i> http://pdr.net/drug-summary/provigil?druglabelid=2332	W
Drug Summary: Restoril (temazepam), PDR.net, <i>available at</i> http://pdr.net/drug-summary/restoril?druglabelid=793	X

Drug Summary: Ritalin (methylphenidate hcl), PDR.net, <i>available at</i> http://pdr.net/drug-summary/ritalin?druglabelid=1989	Y
Drug Summary: Sonata (zaleplon), PDR.net, <i>available at</i> http://pdr.net/drug-summary/sonata?druglabelid=1491	Z
Drug Summary: Stadol NS (butorphanol tartrate), PDR.net, <i>available at</i> http://pdr.net/drug-summary/stadol-ns?druglabelid=917	AA
Drug Summary: Valium (diazepam), PDR.net, <i>available at</i> http://pdr.net/drug-summary/valium?druglabelid=2100	BB
Drug Summary: Vicodin (acetaminophen, hydrocodone bitartrate), PDR.net, <i>available at</i> http://pdr.net/drug-summary/vicodin?druglabelid=33	CC
Drug Summary: Vyvanse (lisdexamfetamine dimesylate), PDR.net, <i>available at</i> http://pdr.net/drug-summary/vyvanse?druglabelid=538	DD
Drug Summary: Xanax (alprazolam), PDR.net, <i>available at</i> http://pdr.net/drug-summary/xanax?druglabelid=1873	EE
Drug Summary: Xyrem (sodium oxybate), PDR.net, <i>available at</i> http://pdr.net/drug-summary/xyrem?druglabelid=281	FF
Oregon Health Authority, Data Requests, http://www.orpdmp.com/data-requests/	GG
Oregon Health Authority, Law Enforcement, http://www.orpdmp.com/law-enforcement/	HH
Petition to Enforce DEA Administrative Subpoena, <i>United States v. State of Oregon Prescription Drug Monitoring Program</i> , No. 12-MC-298 (D. Or. Aug. 24, 2012)	II
Declaration of Lori A. Cassity In Support of Petition to Enforce DEA Administrative Subpoena, <i>United States v. State of Oregon Prescription Drug Monitoring Program</i> , No. 12-MC-298 (D. Or. Aug. 24, 2012)	JJ
Memorandum in Support of Petition to Enforce DEA Administrative Subpoena, <i>United States v. State of Oregon Prescription Drug Monitoring Program</i> , No. 12-MC-298 (D. Or. Aug. 24, 2012)	KK
Declaration of Tyler D. Warner in Support of Petition to Enforce DEA Administrative Subpoena, <i>United States v. State of Oregon Prescription Drug Monitoring Program</i> , No. 12-MC-298 (D. Or. Aug. 24, 2012)	LL
Order to Enforce DEA Administrative Subpoena, <i>United States v. State of Oregon Prescription Drug Monitoring Program</i> , 12-MC-298 (D. Or. Aug. 27, 2012)	MM
New London Consulting & FairWarning, How Privacy Considerations Drive Patient Decisions and Impact Patient Care Outcomes (Sept. 13, 2011), <i>available at</i> http://www.fairwarning.com/whitepapers/2011-09-WP-US-PATIENT-SURVEY.pdf	NN

-----Patient Privacy Rights & Zogby International, 2000 Adults' Views on Privacy, Access to Health
Information, and Health Information Technology (2010), [http://patientprivacyrights.org/wp-](http://patientprivacyrights.org/wp-content/uploads/2010/11/Zogby-Result-Illustrations.pdf)
content/uploads/2010/11/Zogby-Result-Illustrations.pdfOO

Institute for Health Freedom & Gallup Organization, Public Attitudes Toward Medical Privacy
(Sept. 26, 2000), <http://www.forhealthfreedom.org/Gallupsurvey/IHF-Gallup.pdf> PP

Jaime M. Grant et al., Injustice at Every Turn: A Report of the National Transgender
Discrimination Survey (Executive Summary) (2011), *available at*
http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf QQ

Pursuant to 28 U.S.C. § 1746, I hereby declare and state under penalty of perjury that the
foregoing is true and correct to the best of my knowledge, information, and belief.



Nathan Freed Wessler

Dated: July 1st, 2013